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July 7, 2006

## ***FILED VIA ECFS***

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 Twelfth Street, S.W.  
Room TW-A325  
Washington, DC 20554

**Re:        MB Docket No. 03-15**  
**KTDO(TV), Las Cruces, New Mexico (FIN-36916)**  
**Request for Waiver of July 1, 2006 Construction Deadline**

Dear Ms. Dortch:

Currently, KTDO(TV), Las Cruces, New Mexico, is operating a lower power DTV facility pursuant to special temporary authority ("STA"), which provides DTV service to the station's community. Consistent with the Commission's policy, operation with this STA facility has automatically extended the expiration of the station's underlying DTV construction permit. As KTDO(TV) seeks authorization to continue operating the lower power STA facilities pending the Commission's approval of the station's request for authority for a distributed transmission system ("DTS"), which would provide full DTV replication service, it respectfully seeks a waiver of the July 1, 2006 replication deadline and an extension of the underlying construction permit.

Simultaneously herewith, ZGS El Paso Television, LP ("ZGS"), the licensee of KTDO(TV), is filing an FCC Form 337 via CDBS seeking an extension of KTDO(TV)'s DTV construction permit FCC File No. BPCDT-19990709LE. Consistent with telephone conversations with the Commission's Media Bureau staff, it is understood that the timely submission of a request for extension of the station's underlying DTV construction permit is sufficient to toll the July 1, 2006, "use-it or lose-it" replication deadline. Out of an abundance of caution, however, ZGS hereby submits this letter in MB Docket No. 03-15 via the FCC's

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Electronic Comment Filing System to clarify that KTDO(TV) is seeking a waiver of the July 1, 2006 replication deadline as well as an extension of its underlying DTV construction permit. Accordingly, the showing made pursuant to the simultaneously filed FCC Form 337 is hereby incorporated into MB Docket No. 03-15. A copy of the FCC Form 337 extension request is attached hereto and provides justification for both an extension of KTDO(TV)'s construction period and a waiver of the July 1, 2006 use-it or lose-it replication deadline. As detailed in Exhibit 1 to the FCC Form 337, in light of the fact that the DTS request currently remains pending before the Commission, ZGS respectfully requests an extension of KTDO's underlying DTV construction period and a waiver of the July 1, 2006 deadline until such time as it is able to commence replication service commensurate with this DTS proposal.

If there are any questions regarding this request, please contact the undersigned.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Brendan Holland', with a long, sweeping horizontal stroke extending to the right.

Brendan Holland

cc: Shaun Maher (via hand delivery)  
Enclosure

## **Federal Communications Commission**

**FCC MB - CDBS Electronic Filing**  
**Account number: 812008**

**Description: REQUEST FOR EXTENSION OF KTDO-DT CP**  
**Application Reference Number: 20060707ABH**  
**Successfully filed at Jul 7 2006 11:00AM**

**Based on the information supplied, no fee is required.**

[Menu](#)

Federal Communications Commission Washington, D.C. 20554		Approved by OMB 3060-0032 (June 2002)		FOR FCC USE ONLY	
<b>FCC 337</b>					
<b>APPLICATION FOR EXTENSION OF TIME TO CONSTRUCT A DIGITAL TELEVISION BROADCAST STATION</b>				FOR COMMISSION USE ONLY FILE NO. - 20060707ABH	
1. Legal Name of the Licensee/Permittee ZGS EL PASO TELEVISION, L.P.					
Mailing Address 2000 NORTH 14TH STREET SUITE 400					
City ARLINGTON		State or Country (if foreign address) VA		Zip Code 22201 -	
Telephone Number (include area code) 7035285656		E-Mail Address (if available)			
FCC Registration Number: 0011168663		Call Sign KTDO-DT		Facility Identifier 36916	
2. Contact Representative (if other than licensee/permittee) BRENDAN HOLLAND				Firm or Company Name DAVIS WRIGHT TREMAINE LLP	
Mailing Address 1500 K STREET, N.W.					
City WASHINGTON		State or Country (if foreign address) DC		ZIP Code 20005 -	
Telephone Number (include area code) 2025086600		E-Mail Address (if available) BRENDANHOLLAND@DWT.COM			
3. Facility Information:					
a. <input checked="" type="radio"/> Commercial		b. <input type="radio"/> Noncommercial Educational			
c. Community of License:					
City: LAS CRUCES		State: NM			
4. <b>Purpose of Application.</b> Applicant requests an extension of time in which to complete the construction authorized pursuant to (check one):					
<input checked="" type="radio"/> a permit for a new DTV station		Permit No. BPCDT-19990709LE		Expiration Date: 11/01/2002	
<input type="radio"/> a modification of a DTV construction permit		Permit No. -		Expiration Date:	
<input type="radio"/> Amendment to pending application					
5. Applicant certifies that construction cannot be completed due to (check all that apply):					
<input type="checkbox"/> technical (e.g., equipment delays)					
<input checked="" type="checkbox"/> legal (e.g., litigation)					
<input type="checkbox"/> financial (e.g., inability to finance)					
<input type="checkbox"/> other reasons (e.g., natural disasters)					
Describe in an Exhibit the specific reason(s) requiring additional time to construct, including the steps taken by the applicant to solve or mitigate the problem(s).				[Exhibit 1]	
6. Has the construction period for this station been previously extended ?				<input checked="" type="radio"/> Yes <input type="radio"/> No	

	a.If Yes, describe in an Exhibit the applicant's diligent efforts during the most recent construction period to overcome the circumstance(s) preventing construction.	[Exhibit 2]
7.	Applicant requests that the time within which to complete construction be extended until:	1/7/2007
	a. If applicant is not able to state now when construction is expected to be completed, describe in an Exhibit the reasonable steps it is taking to resolve the problem(s) preventing timely construction.	[Exhibit 3]
8.	<b>Anti-Drug Abuse Act Certification.</b> Applicant certifies that neither applicant nor any party to the application is subject to denial of federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. Section 862.	<input checked="" type="radio"/> Yes <input type="radio"/> No

I certify that the statements in this application are true, complete, and correct to the best of my knowledge and belief, and are made in good faith. I acknowledge that all certifications and attached Exhibits are considered material representations. I hereby waive any claim to the use of any particular frequency as against the regulatory power of the United States because of the previous use of the same, whether by license or otherwise, and request an authorization in accordance with this application. (See Section 304 of the Communications Act of 1934, as amended.)

Typed or Printed Name of Person Signing EDUARDO ZAVALA	Typed or Printed Title of Person Signing VICE PRESIDENT
Signature	Date 7/7/2006

WILLFUL FALSE STATEMENTS ON THIS FORM ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001), AND/OR REVOCATION OF ANY STATION LICENSE OR CONSTRUCTION PERMIT (U.S. CODE, TITLE 47, SECTION 312(a)(1)), AND/OR FORFEITURE (U.S. CODE, TITLE 47, SECTION 503).

## Exhibits

### Exhibit 1

Description: EXHIBIT 1

PLEASE SEE ATTACHED.

### Attachment 1

Description
Exhibit 1

### Exhibit 2

Description: EXHIBIT 2

PLEASE SEE EXHIBIT 1 ABOVE.

### Attachment 2

**EXHIBIT 1**

On December 20, 2005, ZGS El Paso Television, LP ("ZGS"), licensee of television station KTDO(TV), Las Cruces, New Mexico, submitted a request for Special Temporary Authority ("STA") seeking authority for KTDO-DT to operate a distributed transmission system ("DTS") to provide full DTV service to the El Paso Market. Currently, KTDO-DT's DTS proposal remains pending before the Commission. This DTS operation would employ two lower power transmitter sites (one of which is the station's present low power DTV STA facility serving the community of license), and would enable KTDO-DT to fully replicate its analog service area and comply with the Commission's July 1, 2006 "use-it or lose-it" replication deadline. ZGS has been paying rent on the tower proposed in this DTS request for over a year, in anticipation that it would have obtained the authorization granted in time to commence operations consistent with the July 1, 2006 deadline. However, in light of the fact that the DTS request remains pending before the Commission, ZGS respectfully requests an extension of KTDO's underlying DTV construction period and a waiver of the July 1, 2006 deadline until such time as it is able to commence operations commensurate with this DTS proposal.

Previously, KTDO-DT commenced DTV operations to Las Cruces, New Mexico, its community of license, pursuant to a low power STA previously granted by the Commission. (See FCC File No. BEDSTA-20051206AGO, and further request for extension filed June 29, 2006). By virtue of its low power STA service to its community, the construction period for KTDO's underlying DTV construction permit has been extended automatically consistent with the Commission's Report and Order, *Review of the Commission's Rules and Policies Affecting*

*the Conversion to Digital Television*, 16 FCC Rcd 20594 (2001) (“*First DTV Order*”). As KTDO has received only one extension of its DTV construction permit previously, this request can be considered by the Media Bureau, which is authorized to grant licensees up to two six-month extensions of the DTV construction period. *First DTV Order* at ¶ 47.

As the Commission is aware, ZGS was not involved in the planning of the KTDO’s current authorized full-power DTV facilities, as it only acquired the station in October, 2004. Since acquiring the station, however, ZGS has been working to improve KTDO’s proposed DTV facilities, and to resolve coverage problems presented by the local topography. The El Paso Market is home to unique topographical features, namely the Franklin Mountains and the 5632 foot high Ranger Peak, which bisect the market and stand between the El Paso and Las Cruces communities. This topography has required that KTDO NTSC Channel 48 operate pursuant to STA at reduced power and from a different transmitter site, in order to permit co-owned LPTV station K48IK, El Paso, Texas, to also operate on Channel 48 on the other side of the mountain. The DTS facility proposed by the pending STA would overcome the geographic problems that have previously prevented KTDO from effectively serving its community, and which threaten to limit the effectiveness of KTDO’s full power DTV service. In addition, in light of the fact that the former owners of KTDO dismantled the tower specified in KTDO’s current DTV construction permit, use of the proposed distributed transmission system would also eliminate the costly, time-consuming, and unnecessary need to reconstruct that tower, which is located on the wrong side of the intervening mountain.

As demonstrated in the pending DTS request, ZGS proposes to maintain its current DTV STA facility in Las Cruces and add a second distributed transmitter site atop Ranger Peak

mountain, which overlooks the city of El Paso, Texas. The additional facility would operate on the same channel – DTV Channel 47 – and would increase KTDO-DT's current service commensurate with the station's allotted and protected replication service area. Grant of the requested DTS authorization would serve the public interest by speeding the introduction of full DTV replication service to KTDO-DT's market in a cost-effective and efficient manner. Together with the existing facility in Las Cruces, this second facility atop Ranger Peak will enable KTDO-DT to effectively serve its allotted replication service area. By its *Clarification Order and Notice of Proposed Rulemaking*, the Commission stated that interim DTS operations would be permitted, so long as they complied with the Commission's guidelines for such service. *Digital Television Distributed Transmission System Technologies*, Clarification Order and Notice of Proposed Rulemaking, FCC 05-192, MB Docket No. 05-312, released November 4, 2005 at 3-4. As demonstrated in the pending request, KTDO-DT's proposed DTS system complies with those guidelines. Furthermore, the public interest benefits in favor of granting KTDO-DT authority for a DTS operation are overwhelming, including the fact that approval of the proposal will: i) permit KTDO-DT to satisfy the July 1, 2006, digital build-out requirement; ii) provide efficient and cost-effective DTV service to KTDO-DT's authorized service area; and iii) speed KTDO's introduction of local Spanish-language news and programming.

ZGS is anxious to begin full replication DTV service to El Paso consistent with its pending DTS proposal, and respectfully requests that the Commission approve its request for Special Temporary Authority to utilize a distributed transmission system to commence full DTV service to the El Paso market. In the meantime, ZGS respectfully requests that the Commission extend KTDO's underlying DTV construction permit and waive the July 1, 2006 replication



deadline until such time as the station is able to obtain authorization for, and construct, the requested DTS facilities. Grant of such an extension is in the public interest and a result of circumstances beyond the licensee's control.